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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/902,904

07/11/2001

Steven B Dunn

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21302

7590

02/14/2012

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EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT

PAPER NUMBER

3744

MAIL DATE

DELIVERY MODE

02/14/2012

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/902,904	<b>Applicant(s)</b> DUNN ET AL.	
	<b>Examiner</b> Stephen M. Gravini	<b>Art Unit</b> 3744	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 January 2012.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 9, 10, 19, 20 and 29 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☒ Claim(s) 9, 10 and 29 is/are allowed.
- 7) ☒ Claim(s) 19 and 20 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 09 January 2012 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 102***

Claims 19-20 are rejected under 35 U.S.C. 102(b) as being unpatentable over Gates (US 2,197,178). The “means for” language is construed to invoke the sixth paragraph of the 35 USC 112, because of its recitation being modified by functional language and not modified by sufficient acts, structure, or material. The claims are reasonably and broadly construed, in light of the accompanying specification, to be disclosed by Gates as comprising:

a tray **1** having a bottom face that is adapted to be supported by an underlying surface and an upper face (figure 2, page 1 line 8);

bottle support means **15** for supporting a baby bottle (figure 1, page 2 line 6); and

disk holding means **15**, connected to said upper face of said tray, for holding baby bottle disks in a location that is isolated from areas of said tray in which liquid may collect, whereby baby bottle disks are and stored in a safe manner at a location that is convenient to a location at which baby bottles are being dried (figure 1, page 2, left column, line 6 and lines 61-70). Gates also discloses the claimed disk holding means comprising an upstanding boss member that is raised from said upper face of said tray, and a plurality of disk-receiving slots defined in said boss member (figure 1, page 2 line 6).

### ***Response to Arguments***

Applicant's arguments filed January 9, 2012 have been fully considered but they are not persuasive.

### ***Gates anticipation***

Applicants argue that each claim 19 element should be separately considered in light of the prior art reference Gates. As best shown in applicants' figure 1, the "tray" is shown by reference character 12, the "bottle support means" is shown by reference character 18, and the "disk holding means" is shown by anyone of reference characters 18, 32, and 54. The functional language that follows the "disk holding means" does not distinguish it from the bottle support means. In column 3, third full paragraph of the specification, it states "ring support members 32 are, in a manner that is substantially identical to that of pegs 18." In this application, the support means and holding means are recited as being interchangeable as discussed in the specification. Therefore the rejection is proper to construe an interchangeable claim element with an interchangeable teaching of those elements.

The claims are reasonably and broadly construed, in light of the accompanying specification such that support means and holding means are disclosed by Gates. As claimed, the "bottle support means" functionally recites "for supporting a baby bottle." As rejected, the disclosed trough 15 is a means that structurally and functionally is a teaching for supporting a baby bottle. Applicants arguments that Gates element would not support a bottle with a peg or support of some sort. Those features are not claimed. Gates teaching supports a bottle as claimed.

Assuming arguendo, that the claimed disk holding means is recited as a separate element and should be rejected by a separate element, then Gates teaches a disk holding means as claimed. Structurally and functionally the disk holding means is connected to an upper face of a tray for holding baby bottle disks in a location that is isolated from areas of said tray in which liquid may collect, whereby baby bottle disks are and stored in a safe manner at a location that is convenient to a location at which baby bottles are being dried. The described location in the claim is not construed to structurally or functionally limit the claim because it is a subjective claim element. In other words the claimed "safe manner" and "convenient" location do not distinguish the claim. Under the rejection, the disclosed upstanding ribs 17 (figure 5), meet the claimed disk holding means because that teaching shows that the holding means is connected to said tray upper face and capable of holding baby bottle disks as claimed. Applicants argue that the specification "disk holding system 50" distinguishes the claimed invention over the prior art. However, what is claimed is a "disk holding means" which is give a broader claim construction. Although not discussed in the rejection, another "disk holding means" is shown in figure 5 of Gates as reference character 26a. That teaching meets the structure and function of the claimed disk holding means.

In response to applicants arguments with respect to the claimed boss members and slots, that feature is met by the disclosed trough and rack because the trough is raised and the rack contains slots. The boss member and slots is further met by the teachings of Gates figure 5 because the upstanding ribs are boss members that form a slot.

For these reasons the rejection of claims 19-20 by Gates is maintained.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Gravini whose telephone number is (571)272-4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on 571 272 4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen M. Gravini/  
Primary Examiner, Art Unit 3744